

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Vickie Morrison,

Plaintiff,

v.

The Swiss Colony, LLC; and DOES 1-10,
inclusive,

Defendants.

:
:
:
: Civil Action No.: 3:15-cv-00545
:
:
:

: **COMPLAINT AND**
: **DEMAND FOR JURY TRIAL**
:
:

For this Complaint, the Plaintiff, Vickie Morrison, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Vickie Morrison ("Plaintiff"), is an adult individual residing in Rapid City, South Dakota, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant The Swiss Colony, LLC ("Swiss Colony"), is a Wisconsin business entity with an address of 1112 Seventh Avenue, Monroe, Wisconsin 53566-1364, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Agents”) are individual employees and/or agents employed by Swiss Colony and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. Swiss Colony at all times acted by and through one or more of the Agents.

FACTS

7. In or around March 2015, Swiss Colony started calling Plaintiff’s cellular telephone, number 605-xxx-4231, in an attempt to collect a consumer debt allegedly owed by Plaintiff.

8. At all times mentioned herein, Swiss Colony contacted Plaintiff using an automated telephone dialer system (“ATDS” or “predictive dialer”) and/or by using an artificial or prerecorded voice.

9. When Plaintiff answered the calls from Swiss Colony, she heard a prerecorded message instructing Plaintiff to hold for the next available representative.

10. During a live conversation in mid-April 2015, Plaintiff advised Swiss Colony that the calls were inconvenient and harassing and demanded that all calls to her cease immediately.

11. Thereafter, despite having been so informed and directed to cease communications, Swiss Colony continued placing automated calls to Plaintiff’s cellular telephone on a daily basis, without Plaintiff’s consent.

12. The calls caused Plaintiff a great deal of frustration and intruded on her right to be free from unwanted invasions. Plaintiff was ultimately forced to retain the assistance of counsel in an effort to stop the calls.

COUNT I

VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.

13. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. At all times mentioned herein and within the last four years, Defendants called Plaintiff on her cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

15. Defendants continued to place automated calls to Plaintiff's cellular telephone after being directed by Plaintiff to cease calling and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

16. The telephone number called by Defendants was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

17. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. Each of the aforementioned calls made by Defendants constitutes a violation of the TCPA.

19. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

Dated: August 31, 2015

Respectfully submitted,

By /s/ Amy L. Cueller

Amy L. Cueller, Esq., #15052-49
LEMBERG LAW, L.L.C.
1100 Summer Street, 3rd Floor
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
E-Mail: acueller@lemborglaw.com
Attorneys for Plaintiff